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UNCLAS SECTION 01 OF 04 SAO PAULO 000056

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SUBJECT: POOR SAO PAULO PRISON CONDITIONS CONTINUE TO POSE SERIOUS
HUMAN RIGHTS CONCERNS

REF: A) 06 Sao Paulo 751 and previous; B) 07 Brasilia 2208; C) 07
Sao Paulo 946 D) Sao Paulo 49

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Summary

1. (SBU) Although state authorities emphasize that they are working hard on introducing new plans to address deficiencies in Sao Paulo's penitentiaries, reputed to have Brazil's best-organized and well-run jails and detention centers, local prison watchers tell us that conditions are in an abysmal state with human rights violations a norm throughout the system. With limited state supervision and little independent oversight, prisons are overpopulated with primitive sanitation. Complaints of abuse are commonplace. Critics have labeled the state's prison system as a network of "criminal storage facilities" that, without a post-incarceration rehabilitation program, has created a breeding ground for criminal organizations such as the First Capital Command (PCC). Both human rights contacts and state officials agree that the situation desperately needs fixing but that it will take decades to bring about fundamental change. End Summary.

Penitentiary System Overview

2. (SBU) This cable is the first in a three-part series that will explore human rights concerns in Sao Paulo's penitentiary system, social and public security implications of the prison environments - including empowering the First Capital Command (PCC) criminal gang - and steps the state is taking in an attempt to improve prison conditions.

3. (SBU) State Secretariat for Public Security (SSP) Planning and Analysis Coordinator Tulio Kahn said that Sao Paulo State's prison population increased by 162.5 percent between 1994 and 2006, from 55,021 to 144,430 and according to Father Waldir Silveira, Sao Paulo

State Coordinator and National Vice President for the Pastoral Commission for the Incarcerated, a Catholic Church organization that attends prisoners, at the end of 2007, Sao Paulo State had 152,000 prisoners. The ratio of inmates to the general population more than doubled over the same period. The SSP, which administers the state civil and military police as well as their detention centers, apprehends alleged lawbreakers and transfers them to the State Secretariat for Penitentiary Administration (SAP) system of 143

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prisons. Both the SSP and SAP continue to face a barrage of criticism for not being able to handle the incarcerated population. The media regularly highlight allegations of prisoner abuse, unsanitary conditions and widespread corruption within the corrections system.

14. (SBU) Many of our contacts told us that the greatest challenge facing Sao Paulo's penitentiary system is overcrowding. According to SSP's Kahn, with crime growing at an increasingly fast rate, Sao Paulo State would have to build a new prison every month just to be able to keep up with the influx of inmates (see Ref A). (Note: Some press reports from 2007 indicated that Sao Paulo's prisons were already 42,000 inmates over capacity and needed an additional 60 facilities for 700 prisoners each to accommodate the existing prison population at the time. End Note.) Poor jail conditions have created new problems, including spurring the growth of organized crime, such as the deadly First Capital Command (PCC) network. While PCC revenue was previously concentrated in illegal activities within prisons, the gang has now expanded its activities outside of prisons, Kahn said. Sao Paulo State Court of Appeals Criminal Division Justice Jose Damiao Pinheiro Machado Cogan complained that judges condemn criminals to jails knowing that the state will not be able to keep them in adequate facilities but are left with no choice; they cannot allow criminals to go free just because there is nowhere to put them. Exacerbating the overcrowding problem is the

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fact that, because Sao Paulo State has the highest number of prisons, state authorities from throughout Brazil send their prisoners to Sao Paulo expecting the state to be able to incarcerate these offenders, Judge Cogan stated.

Prison Conditions

15. (SBU) University of Sao Paulo Center for the Study of Violence (USP-NEV) Researcher Fernando Salla said that the number of incarcerated in Sao Paulo is consistently greater than allocated funds can support. Sao Paulo's prisons - which Salla admitted are better organized and have better conditions than in other states - have a general standard of accepting approximately three times the number of prisoners they should individually hold. In practice, some prisons are forced to hold up to ten times their capacity. State politicians and society at large are resistant to new regulations and more taxes aimed at improving prison conditions because of the public's acceptance that a poor jail environment is a just part of the criminal's punishment. Salla labeled Sao Paulo's jails as "criminal storage facilities" because officials tend to focus their attention largely on preventing escape. Since not enough guards are hired to patrol the interior, it is impossible to uphold order, discipline and work routines inside the prison walls. Criminal gangs therefore establish and enforce law and order within the jails and conduct reunions as a normal business would hold a board of executives meeting, he said.

16. (SBU) Father Silveira of the Catholic Church's Penitentiary Commission, complained that the dismal conditions in Sao Paulo's jails are an affront to today's concepts of the legal treatment of the incarcerated. In addition to lack of hygiene (many prisoners have no soap or toothbrushes, and facilities have limited shower facilities), food and water are lacking and illnesses are common partly due to infestations of rats and insects. Prisons do not have enough physicians or mental health staff, and legal assistance is minimal, he added. Brazilian law requires criminal court judges, public security ministry representatives and certain other government officials with responsibility for the monitoring of

prisons to visit the jails under their jurisdiction once a month, he stated, but this requirement is almost universally ignored. These officials claim they fear for their safety, or, alternatively, that prison directors do not allow their visits, Silveira said. Prisoners are incarcerated far from their families, who are usually too poor to be able to travel the long distances to visit their jailed relatives. Prison officials regularly abuse inmates through severe beatings or chaining them to the wall for extremely long hours - with full impunity - and deliberately place members of opposing gangs in the same cell, he asserted.

17. (SBU) Of particular concern to human rights activists are the deplorable conditions at women's prisons, Silveira noted. Five percent of Brazil's total incarcerated population is composed of female prisoners but facilities to house these women are severely lacking. According to some studies, women are incarcerated with men because there is simply nowhere else to put them. A recent case in Brazil's northern Para State, in which a 15-year-old girl was arrested on suspicion of petty theft and held in a cell with 34 male inmates sheds light on this issue (Ref B). Father Silveira said that this type of incident is an accepted norm in many states, particularly in Mato Grosso do Sul, where neither the state's Human Rights Commission nor its Bar Association chapter even knew that state law required the position of prisoner ombudsman to exist until his organization made them aware. Particularly worrisome cases are not just isolated to less-developed states. Recent media reports focused on the Monte Mor Women's Prison near Campinas in Sao Paulo State where 119 female inmates were allegedly crammed into a rat, lice and insect-infested space designed for 12 people. (Note: According to press reports, Sao Paulo State Governor Jose Serra ordered the transfer of 43 of the incarcerated women to other facilities; this figure, however, would still leave the prison with

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an overpopulation of 64 inmates. End Note.)

Staff Conditions

18. (SBU) The Sao Paulo State Prison System Employees Union (SIFUSPESP) is an organization that fights for the rights of the 23,000 internal prison guards, 4,000 prison external perimeter guards and around 7,000 social workers, drivers, physicians, psychologists and administrative staff in the state penitentiary network. According to SIFUSPESP President Joao Rinaldo Machado, while critics of the state prison system lament the abuses of prison staff directed at the incarcerated, the public often overlooks employees' rights. Machado said that prison employees are underpaid and must work in a highly dangerous environment in which convicts bring in weapons and drugs and routinely threaten the lives of prison employees and their families. (Comment: According to a recent media story that SIFUSPESP President Machado verified, prison guards make approximately 1500 Reals or USD 857 per month, considered a middle-class salary in the city of Sao Paulo and an even more generous income in the interior of the state. End Comment.) USP-NEV Researcher Salla added that the number of prison staff is too small to support the system. State authorities have agreed to hire 600 additional prison guards in 2008, but this will not come close to the number needed to make a dent in the high prisoner-to-guard ratio.

19. (SBU) SIFUSPESP Secretary General Joao Alfredo de Oliveira stated emphatically that torture does not exist in Brazil and that prison guards do not abuse the incarcerated. Oliveira stated that overpopulation - not the treatment of the incarcerated - is the main reason there are complaints regarding the prison system. The State of Sao Paulo blames the federal government for not providing enough money to build new prisons and its own law enforcement personnel for being overly aggressive in attempting to apprehend even petty thieves and sending them to temporary detention centers to await trial. While in temporary detention, these small-time criminals associate with members of criminal organizations within the prisons or temporary detention centers, join gangs and sometimes commit crimes more serious than the infraction for which they were detained in the first place. Oliveira said that many of these criminals do not have to be in jail for as long as they are, but are not released

due to bureaucratic delays and processing issues. As the prisoner population grows, management decreases. According to Oliveira, in 1994 there was one guard for every 2.17 prisoners, but by 2007, the ratio was one guard per 6 incarcerated. With guards barred from carrying rifles within the prison walls, they become easy and automatic targets for violent repercussions from the incarcerated.

Public Defenders Weigh In

¶10. (SBU) Public Defender's Office Internal Affairs Director General Carlos Weis (a former IV), who heads Sao Paulo State's unit in charge of providing attorney representation for the indigent, said that until the state upholds its penal code, severe human rights violations will continue in the prison system. Weis, who is a member of the Ministry of Justice's National Council on Criminal and Penitentiary Policy, a body responsible for analyzing, monitoring and formulating prison regulations throughout Brazil, highlighted that Sao Paulo State laws are written to guarantee prisoners' rights perfectly but are universally ignored. Public defender Carmen Silvia de Moraes Barros, a member of Weis's team, said that Sao Paulo does not follow a clear strategy for improving prison conditions. The state's focus continuously changes; reforms are haphazard and target only one or two prisons at a time; and new ideas are inconsistently incorporated to address problems. Weis said the only overall positive step the state has taken in the past ten years is to build more prisons, but that this is not a systematic solution, he emphasized. Barros noted that this has not

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solved the problem of prison overpopulation because so many of the accused are in temporary detention centers and even jails without even having gone to trial because of the backlog in court cases. According to Weis, Sao Paulo must invest more resources in the defense of the incarcerated, in health and education campaigns inside the prisons and in programs that will allow criminals to become constructive members of society when they leave prison. Based on the number of complaints he sees in his office, Weis believes that serious physical abuses including severe beatings are actually increasing within the state prisons. Barros added that this is coupled with the chronic shortage of physicians and medical staff in Sao Paulo's prisons.

Comment

¶11. (SBU) Driving past the open lawns and shaded corners of the vast park that neighbors SAP headquarters in Sao Paulo's northern neighborhood of Santana, it is hard to believe that only six years ago, the notorious Carandiru Prison, at the time South America's largest, occupied the same plot. Carandiru, where a riot on October 2, 1992 led to intervention by the state military police that ended in the deaths of 111 prisoners, was emblematic of the type of prison that human rights groups, state authorities, the incarcerated and prison staff all regard as the ultimate nightmare. If authorities believed that tearing down the prison would bring about a break with past practices, they were mistaken. Only with a public that is truly focused on atrocious jail conditions, not just seasonally interested depending on a media story, will the state begin to address the issue.

¶12. (SBU) Comment continued. With the anticipated signing of a bilateral Letter of Agreement on counter-narcotics and law enforcement cooperation, we may have the opportunity to work more closely with Sao Paulo State authorities on creating higher prison standards and better conditions. In a January 28 meeting, Governor Serra told the Ambassador that state prisons are "very problematic" and he would be interested in U.S. expertise in prison administration (Ref D). End Comment.

¶13. (U) Embassy Brasilia coordinated with and cleared this cable.

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